

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA	:	
	:	
v.	:	1:20-CR-512-1
	:	
BRADLEY REIFLER,	:	
	:	
Defendant.	:	

**NOTICE OF INTENT
TO OFFER TESTIMONY**

The United States of America submits this notice of its intent to offer the testimony of Evan Fuest, a Computer Forensic Engineer at RVM Enterprises (“RVM”). The government does not intend to offer the testimony of Mr. Fuest as an expert witness pursuant to Federal Rules of Evidence 702, 703, and 705. However, to the extent his testimony may be construed by the Court as expert testimony under those Rules, the government gives notice of his testimony out of an abundance of caution pursuant to Federal Rules of Criminal Procedure 16(a)(1)(G).

The indictment alleges that during contested bankruptcy proceedings in the Southern District of New York, the defendant destroyed evidence of his involvement with the victim in this case. Docket Entry (“D.E.”) 1, ¶41. At trial, Mr. Fuest will explain that during the bankruptcy proceedings, he and his firm were engaged to collect, process, and examine electronic data

provided by the defendant. During the examination, Mr. Fuest discovered that—after the bankruptcy court had ordered the defendant to preserve and produce electronically discoverable information—the defendant searched the internet about how to permanently delete emails and files; attempted to delete inbox folders titled “North Carolina Mutual” and “Summit Trust;” moved hundreds of files to his recycling bin, including files named “Investment Advisory Agreement Steve Ficus [sic];” and downloaded and used a program called “Eraser,” which is designed and intended to permanently destroy computer files. Additionally, as specifically alleged in the indictment, Mr. Fuest found a text message in which the defendant told his IT employee that he “want[ed] to delete all emails from 2016 on [] back.” D.E. 1, ¶41.

The government has subpoenaed Mr. Fuest as a fact witness. The government has not retained Mr. Fuest or his firm and will not pay him for his testimony. The government notes, however, that Mr. Fuest and his firm were retained by the plaintiff in the related civil case.¹ The government produced Mr. Fuest’s report (which appends his *curriculum vitae*) from the civil case in discovery, and attaches it again here for the Court’s reference. See Ex. A. Also attached are Mr. Fuest’s declarations from the bankruptcy

¹ See North Carolina Mutual Life Insurance Company v. Stamford Brook Capital, LLC, 1:16-cv-01174 (M.D.N.C.).

proceedings, which the government also produced in discovery. *See* Exs. B and C.

Respectfully submitted,

Dated: December 20, 2021

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CERTIFICATE OF SERVICE

I certify that on December 20, 2021, I electronically filed the foregoing document with the Clerk of Court using the ECF system, which will send notification of such filing to counsel of record.

s/Thomas J. Tynan
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